



6351-01-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 3, 5, 9, 11, 31, 40, 41, 140, 145, 170, 171 and 190

RIN 3038-AE03

Reassignment of Commission Staff Responsibilities and Delegations of Authority

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulations to reflect the reassignment of responsibilities, including delegations of authority, resulting from its recent reorganization of Commission staff. Effective October 9, 2011, the Commission abolished the Division of Clearing and Intermediary Oversight and reassigned its staff and responsibilities to the newly established Division of Swap Dealer and Intermediary Oversight and Division of Clearing and Risk.

DATES: These amendments shall become effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

I. Background

On July 21, 2010, President Obama signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”),¹ which extensively revises the Commodity Exchange Act.² In order to more effectively implement its provisions, the Commission has reorganized its operating divisions. Under the reorganized structure, the Division of Clearing and Intermediary Oversight has been reconfigured into two new divisions: the Division of Swap Dealer and Intermediary Oversight and the Division of Clearing and Risk.

The Commission is amending its regulations to reflect this reorganized structure. Accordingly, as indicated in the chart below, the Commission is deleting references to the former division and replacing them with references to the new divisions in the Commission’s regulations. As amended, the regulations will reflect new assignments of responsibilities, including delegated authorities, to the new divisions.

II. RELATED MATTERS

A. Administrative Procedure Act

The amendments to the Commission's regulations in this rulemaking do not establish any new substantive or legislative rules, but rather relate solely to the restructuring of responsibilities within the Commission, including amendments re-delegating authority to newly formed divisions, and therefore relate solely to agency organization, procedure, and practice. Therefore, this rulemaking is excepted from the

¹ See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at <http://www.cftc.gov/LawRegulation/OTCDERIVATIVES/index.htm>.

² The Commodity Exchange Act may be found at 7 U.S.C. 1 et seq.

public rulemaking provisions of the Administrative Procedure Act.³ Additionally, as the revisions to the Commission's regulations in this rulemaking will not cause any party to undertake efforts to comply with the regulations as revised, the Commission has determined to make this rulemaking effective upon publication in the Federal Register.⁴

B. Regulatory Flexibility Act

The Regulatory Flexibility Act requires the Commission to consider whether the regulations it adopts will have a significant economic impact on a substantial number of small entities.⁵ The Commission is obligated to conduct a regulatory flexibility analysis for any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of the Administrative Procedure Act.⁶ This rulemaking is excepted from the public rulemaking provisions of the Administrative Procedure Act. Accordingly, the Commission is not obligated to conduct a regulatory flexibility analysis for this rulemaking.

C. Paperwork Reduction Act

The Commission may not conduct or sponsor, and a respondent is not required to respond to, a collection of information contained in a rulemaking unless the information collection displays a currently valid control number issued by the Office of Management and Budget ("OMB") pursuant to the Paperwork Reduction Act.⁷ This rulemaking contains no collection of information for which the Commission is obligated to obtain a control number from OMB.

³ 5 U.S.C. 553(b).

⁴ See 5 U.S.C. 553(d).

⁵ See 5 U.S.C. 601 et seq.

⁶ 5 U.S.C. 601(2).

⁷ See 44 U.S.C. 3501 et seq.

List of Subjects in 17 CFR Part 140

Authority delegations (Government agencies), Organization and functions
(Government agencies).

For the reasons stated in the preamble, the Commission hereby amends chapter I of title 17 of the Code of Federal Regulations as follows:

PARTS 1, 3, 5, 9, 11, 31, 40, 41, 140, 145, 170, 171, and 190 – [AMENDED]

1. For each section and paragraph indicated in the left column of the following table, remove the division name or title indicated in the middle column from wherever it appears in the section or paragraph, and add in its place the division name or title indicated in the right column:

Section	Remove	Add
1.12(g)(3)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
1.12(h)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
1.17(c)(6)(ii)(A)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
1.17(c)(6)(ii)(D)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
1.17(c)(6)(iii)(B)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
1.65(d)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
1.66(b)(5)(ii)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
3.22 introductory text	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
3.50(c)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary

		Oversight
3.50(d)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
3.55(e)(2)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
3.56(e)(2)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
3.63	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
3.70(a)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
3.70(a)	Attn: Deputy Director, Compliance and Registration Section, Division of Clearing and Intermediary Oversight	Attn: Deputy Director, Registration and Compliance Branch, Division of Swap Dealer and Intermediary Oversight
Pt. 3 app. A, note 2	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
5.6(f)(3)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
5.6(h)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
5.20(d) (2 references)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
5.23(f)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
9.2(h)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight and Division of Clearing and Risk
9.26	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight and Division of Clearing and Risk
9.31(a)	Division Clearing and	Division of Swap Dealer

	Intermediary Oversight	and Intermediary Oversight and Division of Clearing and Risk
11.2(a)	the Director of the Division of Clearing and Intermediary Oversight	the Director of the Division of Swap Dealer and Intermediary Oversight and the Director of the Division of Clearing and Risk
31.13(n)(1) (2 references)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
31.14(a)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
40.7(a)(1)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk
40.7(a)(2)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk
40.7(a)(3)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk
40.7(a)(4)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk
40.7(b)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk
40.7(c)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk
41.3(d)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
Pt. 140 Table of Contents (140.75)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk and Division of Swap Dealer and Intermediary Oversight
Pt. 140 Table of Contents (140.91)	Division of Trading and Markets	Division of Swap Dealer and Intermediary Oversight
Pt. 140 Table of Contents (140.93)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight

Pt. 140 Table of Contents (140.94)	Director of the Division of Clearing and Risk	Directors of the Division of Clearing and Risk and the Division of Swap Dealer and Intermediary Oversight
140.72(a)	Director of the Division of Clearing and Intermediary Oversight, each Deputy Director of the Division of Clearing and Intermediary Oversight	Director of the Division of Swap Dealer and Intermediary Oversight, the Chief Counsel of the Division of Swap Dealer and Intermediary Oversight, each Deputy Director of the Division of Swap Dealer and Intermediary Oversight, the Director of the Division of Clearing and Risk, the Chief Counsel of the Division of Clearing and Risk, each Deputy Director of the Division of Clearing and Risk
140.73(a)	Director of the Division of Clearing and Intermediary Oversight or, in his or her absence, each Deputy Director of the Division of Clearing and Intermediary Oversight	Director of the Division of Swap Dealer and Intermediary Oversight or, in his or her absence, the Chief Counsel of the Division of Swap Dealer and Intermediary Oversight, each Deputy Director of the Division of Swap Dealer and Intermediary Oversight, the Director of the Division of Clearing and Risk or, in his or her absence, the Chief Counsel of the Division of Clearing and Risk, each Deputy Director of the Division of Clearing and Risk

140.75 (section heading and 2 references)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk and Division of Swap Dealer and Intermediary Oversight
140.76(a)	Director of the Division of Clearing and Intermediary Oversight	Director of the Division of Swap Dealer and Intermediary Oversight, the Director of the Division of Clearing and Risk
140.76(b)	Director of the Division of Clearing and Intermediary Oversight	Director of the Division of Swap Dealer and Intermediary Oversight, the Director of the Division of Clearing and Risk
140.91 (section heading)	Division of Trading and Markets	Division of Swap Dealer and Intermediary Oversight
140.91(a)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
140.91(b)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
140.92(a)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk and Division of Swap Dealer and Intermediary Oversight
140.92(b)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk and Division of Swap Dealer and Intermediary Oversight
140.92(c)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk and Division of Swap Dealer and Intermediary Oversight
140.93 (section heading)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
140.93(a)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
140.93(b)	Division of Clearing and	Division of Swap Dealer

	Intermediary Oversight	and Intermediary Oversight
140.93(c)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
140.95(a)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk and Division of Swap Dealer and Intermediary Oversight
140.95(b)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk and Division of Swap Dealer and Intermediary Oversight
140.95(c)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk and Division of Swap Dealer and Intermediary Oversight
140.96(b)	the Director of the Division of Clearing and Intermediary Oversight or the Director's designee	the Director of Swap Dealer and Intermediary Oversight or the Director's designee, and to the Director of the Division of Clearing and Risk or the Director's designee
140.96(c)	Director of the Division of Clearing and Intermediary Oversight	Director of the Division of Swap Dealer and Intermediary Oversight or the Director of the Division of Clearing and Risk
140.96(d)	Director of the Division of Clearing and Intermediary Oversight	Director of the Division of Swap Dealer and Intermediary Oversight or the Director of the Division of Clearing and Risk
140.99(a)(5)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight, the Division of Clearing and Risk
Part 145, App. A, (g)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight

Pt. 170 (Table of Contents)	170.12 Delegation of Authority to Director of the Division of Clearing and Intermediary Oversight	170.12 Delegation of Authority to Director of the Division of Swap Dealer and Intermediary Oversight
170.12 (section heading and 1 reference)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight
171.28	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight and the Division of Clearing and Risk
171.31(a)	Division of Clearing and Intermediary Oversight	Division of Swap Dealer and Intermediary Oversight and the Division of Clearing and Risk
190.10(b)(4)	Director of the Division of Clearing and Intermediary Oversight, or such members of the Commission's staff acting under his direction as he may designate, on the basis of the information provided in any such request, shall determine, in his sole discretion	Director of the Division of Clearing and Risk, or such members of the Commission's staff acting under his direction as he may designate, on the basis of the information provided in any such request, shall determine, after consultation with the Director of the Division of Swap Dealer and Intermediary Oversight, or such member of the Commission's staff under his direction as he may designate, unless exigent circumstances require immediate action precluding such prior consultation
190.10(d) heading	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk

190.10(d)(1)	Director of the Division of Clearing and Intermediary Oversight, and to such members of the Commission's staff acting under his direction as he may designate	Director of the Division of Clearing and Risk, and to such members of the Commission's staff acting under his direction as he may designate, after consultation with the Director of the Division of Swap Dealer and Intermediary Oversight, or such member of the Commission's staff under his direction as he may designate, unless exigent circumstances require immediate action
190.10(d)(2)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk
190.10(d)(3)	Division of Clearing and Intermediary Oversight	Division of Clearing and Risk

PART 140 – ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

2. The authority citation for Part 140 is revised to read as follows:

Authority: 7 U.S.C. 2(a)(12), 13(c), 13(d), 13(e), and 16(b).

3. Section 140.94 is revised to read as follows:

§140.94 Delegation of authority to the Director of the Division of Swap Dealer and Intermediary Oversight and the Director of the Division of Clearing and Risk.

(a) The Commission hereby delegates, until such time as the Commission orders otherwise, the following functions to the Director of the Division of Swap Dealer and Intermediary Oversight and to such members of the Commission's staff acting under his or her direction as he or she may designate from time to time:

- (1) All functions reserved to the Commission in § 5.7 of this chapter;

- (2) All function reserved to the Commission in § 5.10 of this chapter;
- (3) All functions reserved to the Commission in § 5.11 of this chapter;
- (4) All functions reserved to the Commission in § 5.12 of this chapter, except for those relating to nonpublic treatment of reports set forth in § 5.12(i) of this chapter; and
- (5) All functions reserved to the Commission in § 5.14 of this chapter.

(b) The Director of the Division of Swap Dealer and Intermediary Oversight may submit any matter which has been delegated to him or her under paragraph (a) of this section to the Commission for its consideration.

(c) The Commission hereby delegates, until such time as the Commission orders otherwise, the following function to the Director of the Division of Clearing and Risk and to such members of the Commission's staff acting under his or her direction as he or she may designate from time to time:

- (1) All functions reserved to the Commission in §§ 39.3(a)(1), (a)(2), (a)(3), 39.3(b)(1), and 39.3(f)(4) of this chapter;
- (2) All functions reserved to the Commission in § 39.4(a) of this chapter;
- (3) All functions reserved to the Commission in § 39.5(b)(2), (b)(3)(ix), (c)(1), and (d)(3) of this chapter;
- (4) All functions reserved to the Commission in § 39.10(c)(4)(iv) of this chapter;
- (5) All functions reserved to the Commission in § 39.11(b)(1)(vi), (b)(2)(ii), (c)(1), (c)(2), (f)(1), and (f)(4) of this chapter;
- (6) All functions reserved to the Commission in § 39.12(a)(5)(i)(B) of this chapter;

(7) All functions reserved to the Commission in § 39.13(g)(8)(ii), (h)(1)(i)(C), (h)(1)(ii), (h)(3)(i), (h)(3)(ii), and (h)(5)(i)(A) of this chapter;

(8) The authority to request additional information in support of a rule submission under § 39.15(b)(2)(iii)(A) of this chapter and in support of a petition pursuant to section 4d of the Act under § 39.15(b)(2)(iii)(B) of this chapter;

(9) All functions reserved to the Commission in § 39.19(c)(3)(iv), (c)(5)(i), (c)(5)(ii), and (c)(5)(iii) of this chapter;

(10) All functions reserved to the Commission in § 39.20(a)(5); and

(11) All functions reserved to the Commission in § 39.21(d) of this chapter.

(d) The Director of Clearing and Risk may submit any matter which has been delegated to him or her under paragraph (c) of this section to the Commission for its consideration.

(e) Nothing in this section may prohibit the Commission, at its election, from exercising the authority delegated to the Director of the Division of Swap Dealers and Intermediary Oversight under paragraph (a) or to the Director of the Division of Clearing and Risk under paragraph (c) of this section.

5. Amend § 140.99 to revise paragraph (d)(2) to read as follows:

§140.99 Requests for exemptive, no-action and interpretative letters.

* * * * *

(d) * * *

(2) (i) A request for a Letter relating to the provisions of the Act or the Commission's rules, regulations or orders governing designated contract markets, registered swap execution facilities, registered swap data repositories, registered foreign

boards of trade, exempt commercial markets, exempt boards of trade, the nature of particular transactions and whether they are exempt or excluded from being required to be traded on one of the foregoing entities, made available for trading determinations, position limits, hedging exemptions, position aggregation treatment or the reporting of market positions shall be filed with the Director, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

(ii) A request for a Letter relating to the provisions of the Act or the Commission's rules, regulations or orders governing or related to derivatives clearing organizations and other central counterparties, the clearing process, the clearing requirement determination, Commission regulation 1.25 jointly with the Director of the Division of Swap Dealer and Intermediary Oversight, risk assessment, financial surveillance, the end user exemption, and bankruptcy shall be filed with the Director, Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

(iii) A request for a Letter relating to all other provisions of the Act or Commission rules, including Commission regulation 1.25 jointly with the Director of the Division of Clearing and Risk, shall be filed with the Director, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

(iv) The requests described in paragraphs (d)(2)(i) through (iii) of this section must be submitted electronically using the email address dmoletters@cftc.gov (for a request filed with the Division of Market Oversight), dcrletters@cftc.gov (for a request

filed with the Division of Clearing and Risk), or dsioletters@cftc.gov (for a request filed with the Division of Swap Dealer and Intermediary Oversight), as appropriate, and a properly signed paper copy of the request must be provided to the Division of Market Oversight, the Division of Clearing and Risk, or the Division of Swap Dealer and Intermediary Oversight, as appropriate, within ten days for purposes of verification of the electronic submission.

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Issued in Washington, DC, on April 5, 2013, by the Commission.

Christopher J. Kirkpatrick,

Deputy Secretary of the Commission.

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